

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

DARRYL RAMON JOHNSON,)
Plaintiff,) Civil Action No. 7:21cv00080
v.) MEMORANDUM OPINION
SHERIFF TIM ALLEN, *et al.*,) By: Robert S. Ballou
Defendants.) United States Magistrate Judge

Plaintiff Darryl Ramon Johnson, a Virginia inmate proceeding *pro se*, filed this civil rights action under 42 U.S.C. § 1983.¹ On May 7, 2021, the defendants filed a motion to dismiss Johnson’s complaint, and, on May 10, 2021, the court issued a notice pursuant to *Roseboro v. Garrison*, 528 F.2d 309, 310 (4th Cir. 2005). *See* ECF Nos. 15 and 17. The *Roseboro* notice gave Johnson twenty-one days to file a response to the motion to dismiss and advised him that, if he did not respond to the defendants’ motion to dismiss, the court would “assume that Plaintiff has lost interest in the case, and/or that Plaintiff agrees with what the Defendant[s] state[] in their responsive pleading(s).” *See* ECF No. 17. The notice further advised Johnson that, if he wished to continue with the case, it was “necessary that Plaintiff respond in an appropriate fashion,” and that if he failed to file some response within the time allotted, the court “may dismiss the case for failure to prosecute.” *Id.* Johnson did not respond to the motion to dismiss. By order entered August 9, 2021, and at the defendants’ request, the court granted Johnson an extension of time to respond to the defendants’ motion to dismiss. *See* ECF No. 22. Johnson still did not respond to the motion to dismiss. Therefore, the court will dismiss Johnson’s complaint without prejudice for failure to prosecute.

¹ The parties have consented to exercise of jurisdiction in this case by a magistrate judge. See ECF No. 19.

Enter: October 27, 2021

/s/ Robert S. Ballou

Robert S. Ballou
United States Magistrate Judge